06 CV 1560

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ACADEMY OF MOTION PICTURE ARTS AND SCIENCES, a California nonprofit corporation

Plaintiff,

v.

PROPS FOR TODAY, INC, a New York corporation; and DOES 1-10 inclusive,

Defendants.

No. 06 Civ.________________

COMPLAINT FOR:

(1) COPYRIGHT INFRINGEMENT
(2) TRADEMARK INFRINGEMENT
(3) FALSE REPRESENTATION
(4) DILUTION

DEMAND FOR JURY TRIAL

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CASHIERS

Plaintiff Academy of Motion Picture Arts and Sciences (the "Academy") by its attorneys Quinn Emanuel Urquhart Oliver & Hedges, LLP, complains of defendants and alleges:

JURISDICTION AND VENUE

1. This action arises under the copyright laws of the United States, Title 17, United States Code, and under the trademark laws of the United States, Title 15, United States Code, and under the statutory law of dilution. The Court has jurisdiction under 28 U.S.C. §§ 1331 and 1338, and 15 U.S.C. § 1121. In addition, there is complete diversity of citizenship between the parties, and the amount in controversy exceeds $75,000, exclusive of interest and costs. Accordingly, the Court also has jurisdiction under 28 U.S.C. § 1332. Venue lies in this district under 28 U.S.C. §§ 1391 and 1400.

NATURE OF THE ACTION

2. In this action, the Academy seeks damages, injunctive relief and other relief for copyright infringement, trademark infringement and dilution, knowingly and willfully committed by defendants in violation of the laws of the United States. Without the Academy's permission or consent, defendants

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manufacture, distribute, display, advertise, sell, loan and/or rent statuettes that are identical to, or substantially or strikingly similar to the Academy's "©Oscar®" statuette.

PARTIES

3. The Academy is, and at all times herein mentioned was, a non-profit corporation organized and existing under the laws of the State of California, with its principal place of business in Los Angeles County, California.

4. Defendant Props For Today, Inc. ("PFT" or "defendant"), on information and belief, is a New York corporation, having its principal place of business and mailing address at 330 West 34th Street, New York, New York, 10001.

5. The Academy is ignorant of the true names and capacities, whether individual, corporate or otherwise, of Defendants Does 1-10 and therefore sues these defendants by such fictitious names. The Academy will seek leave of the Court to amend this complaint when the true identities of these defendants are ascertained.

FACTUAL BACKGROUND

6. The Academy was founded in 1927 by a now legendary group of thirty-six film industry leaders, who numbered among them Cecil B. DeMille, Mary Pickford, Jack Warner and Douglas Fairbanks for the purposes, inter alia, of advancing motion picture arts and sciences and promoting cultural, educational and technological progress by fostering cooperation among the motion picture industry's creative leadership. As a constant incentive for members of the industry to strive to achieve those purposes, and as a means of recognizing persons who make outstanding contributions in their respective creative fields, the Academy annually confers "Awards of Merit," known to the public as "Oscars," in the plural, and "Oscar" in the singular, in over twenty (20) categories of achievement.

7. The presentation of the Awards of Merit is made during a televised ceremony known as the "Academy Awards®." The "Academy Awards®" is seen each year on a live or delayed basis in more than one hundred (100) countries.

8. The Academy registered the "©Oscar®" with the Copyright Office of the United States of America. A true and correct copy of the Certificate of Registration No. G 38512, is attached as Exhibit A and, by this reference, is incorporated herein as though set forth at length. The Academy renewed the registration of its copyright in the "©Oscar®." A true and correct copy of the Certificate of Registration of a Claim to a Renewal of Copyright, No. R 443432, is attached as Exhibit B and, by this reference, is incorporated herein as though set forth at length. The Academy's copyright is valid and subsisting.

9. The copies of the statuette given to winners of "Academy Awards®" are given subject to certain restrictions, including prohibition against the sale, transfer or copying of the statuette. The Academy has never distributed, or offered to distribute, copies of the "©Oscar®" statuette to the public.

10. The Academy has also registered a two-dimensional depiction of the "©Oscar®" with the Patent and Trademark Office of the United States of America. True and correct copies of the Certificates of Registration Nos. 1,028,635, 1,895,980, 1,960,182 and 2,112,107 are attached as Exhibits C, D, E and F respectively, and by this reference, are incorporated herein as though set forth at length. The "©Oscar®" mark is valid, subsisting and incontestable.

11. The Academy Awards® have come to symbolize the most outstanding achievements in motion picture-making. The Academy permits the above mentioned marks and copyright to be used in advertising for only carefully limited and controlled purposes—such as the advertising of motion pictures nominated for an Academy Award®—and does not permit or license any manufacture, reproduction,

distribution, sale or use of such marks or copyright by manufacturers, distributors, or retailers such as defendants.

12. On information and belief, defendant PFT is a rental facility that, among other things, rents party and event theme props, as well as has an annual inventory sale. On information and belief, PFT services customers in many industries, worldwide. On information and belief, PFT is self-described as New York's largest premier prop house.

13. In or around January, 2006, the Academy discovered that NBC Universal, Inc. ("NBCU"), used and displayed statuettes that bore an identical, substantially or strikingly similar likeness to the "©Oscar®" statuette ("Prop Oscars"). On information and belief, the Prop Oscars were used during a segment of NBCU's "Today Show," aired on national television on January 31, 2006, during which the topic of the upcoming Academy Awards® ceremony was discussed.

14. The Academy never authorized or consented to NBCU's, or its "Today Show" program's, display and/or use of the Prop Oscars.

15. Upon discovering the unauthorized use and display to the general public of the Prop Oscars, and in particular to the "Today Show's" national television audience, on February 2, 2006, the Academy wrote to NBCU informing it that the use of the statuettes substantially or strikingly similar to the "©Oscar®" statuette violated copyright and trademark law. The Academy requested that NBCU immediately cease any reproduction or unauthorized use of the "©Oscar®" statuette and deliver up to the Academy all unauthorized copies of the "©Oscar®" statuette, including the Prop Oscars. A true and correct copy of the Academy's February 2, 2006, letter to NBCU is attached as Exhibit G and, by this reference, is incorporated herein as though set forth at length.

16. In its responsive letter, dated February 10, 2006, NBCU informed the Academy that the Prop Oscars were no longer in NBCU's possession,

custody or control, and that the "Today Show" would not again use the Prop Oscars. In subsequent communications between NBCU and the Academy, NBCU informed the Academy that it obtained the Prop Oscars from defendant PFT.

17. The Academy promptly contacted PFT and informed it that its use of the statuettes that are identical, substantially or strikingly similar to the "©Oscar®" statuette violated copyright and trademark law. The Academy requested that PFT immediately cease any reproduction or unauthorized use of the "©Oscar®" statuette and deliver up to the Academy all unauthorized copies of the "©Oscar®" statuette, including the Prop Oscars.

18. In response, PFT informed the Academy, via e-mail, that it would respond to the Academy by no later then February 20, 2006, and that the Prop Oscars had been removed from PFT's show room and isolated in a secure area where they will remain until PFT responded to the Academy. A true and correct copy of the e-mail from PFT to the Academy, dated February 15, 2006, is attached as Exhibit H and, by this reference, is incorporated herein as though set forth at length.

19. PFT never responded to the Academy.

20. On February 22, 2006, the Academy, through its counsel, sent PFT a cease and desist letter, again informing it that the use of the statuettes substantially or strikingly similar to the "©Oscar®" statuette violated copyright and trademark law. The Academy again requested that PFT provide the Academy with its written assurance that PFT would not again use the '©Oscar®' statuette or works substantially or strikingly similar thereto, in any manner. The Academy's letter also directed PFT's attention to the United States Court of Appeals for the Ninth Circuit's decision in Academy of Motion Picture Arts and Sciences v. Creative House Promotions, Inc., 944 F.2d 1446 (9th Cir. 1991) (holding that the unauthorized use of such statuettes violated the laws of the United States, and the "Oscar" mark should be given the strongest possible protection against infringement). The Academy

requested PFT's full and complete compliance with the terms set forth in the letter by the close of business on February 24, 2006. A true and correct copy of the Academy's February 22, 2006, letter to PFT is attached as Exhibit I and, by this reference, is incorporated herein as though set forth at length.

21. PFT did not respond to the Academy until late in the evening on February 26, 2006. PFT stated it would get back to the Academy by February 28, 2006. In response, the Academy stated that because PFT had repeatedly ignored the Academy's requests concerning the Prop Oscars and had ignored the Academy's deadline to respond, the Academy had no choice but to proceed with a lawsuit to protect its valuable intellectual properties unless PFT immediately complied with the Academy's requests. PFT did not respond. In response, the Academy initiated the present lawsuit.

FIRST CLAIM FOR RELIEF

(Copyright Infringement—17 U.S.C. §§ 106, et seq.)

22. The Academy repeats and realleges each and every allegation contained in Paragraphs 1 through 21, above, as though fully set forth at length.

23. Defendants have manufactured, distributed, displayed and/or used, and continue to manufacture, distribute, display and/or use various types of statuettes that are substantially or strikingly similar to the Academy's copyrighted "©Oscar®" statuette. Defendants' manufacture, reproduction, distribution, display or use of the statuettes is and has been without the consent or authorization of the Academy and for commercial purposes. Accordingly, defendants infringed the Academy's copyright in its "©Oscar®" statuette.

24. The Academy has suffered serious injury as a result of the foregoing infringement of its copyright, including harm to its goodwill and reputation in the marketplace. In addition, the Academy will continue to suffer serious injury if defendants are not enjoined from manufacturing, reproducing, distributing, displaying

or otherwise using the statuettes that are substantially or strikingly similar to the "©Oscar®" statuette. The Academy has no adequate remedy at law for defendants' acts of infringement. Therefore, the Academy is entitled to preliminary and permanent injunctions enjoining defendants' acts of infringement and to recover its costs and reasonable attorneys' fees from defendants pursuant to 17 U.S.C. § 505, in addition to its lost profits and actual damages or statutory damages for defendants' willful infringement.

SECOND CLAIM FOR RELIEF

(Trademark Infringement—15 U.S.C. §§ 1114(1), 1116(d) and 1117)

25. The Academy repeats and realleges each and every allegation contained in paragraphs 1 through 21, above, as though fully set forth at length.

26. The Academy has long used its "Oscar®" mark in interstate commerce in connection with the advertising and promotion of the annual "Academy Awards®" ceremony and to recognize motion pictures honored by the Academy for excellence in one or more aspects.

27. Because of the exclusive and extensive use and promotion of its marks, the Academy's marks have acquired considerable value and have become well known to the consuming public and trade throughout the world as associated with the Academy and as the highest marks of excellence in movie-making.

28. The Academy has not consented to, nor authorized, defendants' manufacture, reproduction, distribution, rental, sale or use of statuettes that are identical to or strikingly or substantially similar to the "Oscar®" design mark.

29. The Academy has not consented to, nor authorized, defendants' use of the "Oscar®" mark in any manner.

30. Defendants' imitation, copying and unauthorized use of the Academy's registered marks constitutes trademark infringement and causes: (a) likelihood of confusion, deception and mistake among the consuming public and

trade as to the source of the products and (b) serious, irreparable injury to the Academy, including injury to its reputation and dilution of the distinctive high quality of its marks, for all of which the Academy has no adequate remedy at law. The Academy is entitled to preliminary and permanent injunctions enjoining defendants' acts of infringement, to recover its costs and reasonable attorneys' fees from defendants, pursuant to 15 U.S.C. § 1117 and to recover three times defendants' profits based on defendants' willful infringement of the "Oscar®" design mark.

THIRD CLAIM FOR RELIEF

(False Representation—15 U.S.C. § 1125(a))

31. The Academy incorporates herein by reference each and every allegation contained in paragraphs 1 through 21 and 26 through 30, above, as though set forth at length.

32. Defendants, through the rental and/or sale of their statuettes, have impliedly misrepresented to the public that defendants' statuettes are approved, sponsored or licensed by the Academy.

33. Defendants' aforesaid acts constitute a false representation that defendants' sale and/or rental of the statuettes are authorized by or emanate from the Academy. Defendants' material misrepresentations may cause the general public to mistakenly believe that defendants' statuettes are authorized by or emanate from the Academy. Such misrepresentations continue to harm the Academy's ability to protect the integrity and image of its name and symbol of excellence and are harming the Academy's reputation.

34. Defendants' acts constitute false representations and are violations of § 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

35. Defendants' acts complained of herein irreparably damaged, and will continue to damage, the Academy. The Academy has no adequate remedy at law for these wrongs and injuries. The damage to the Academy includes harm to its

goodwill and reputation in the marketplace that money damages cannot compensate. The Academy is therefore entitled to an injunction enjoining defendants' acts of false representation.

FOURTH CLAIM FOR RELIEF

(Dilution—15 U.S.C. § 1125(c))

36. The Academy incorporates herein by reference each and every allegation contained in paragraphs 1 through 21, 26 through 30, and 32 through 35, above, as though set forth at length.

37. Defendants' reproduction, manufacture, distribution, rental, sale or use of the statuettes that are substantially or strikingly similar to the Academy's federally registered "Oscar®" design mark tarnishes and dilutes, and will continue to tarnish and dilute, the distinctive quality of the Academy's marks in violation of § 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

38. Defendants' acts complained of herein have irreparably damaged, and will continue to damage, the Academy. The Academy has no adequate remedy at law for these wrongs and injuries. The damage to the Academy includes harm to its goodwill and reputation that money damages cannot compensate. The Academy is therefore entitled to an injunction enjoining the defendants' acts of dilution, actual and statutory damages, and all additional relief authorized under the Lanham Act.

PRAYER FOR RELIEF

WHEREFORE, the Academy demands judgment:

1. That defendants, as well as all persons acting under the direction, control, permission or authority of defendants, or any of them, and all persons acting in concert therewith, be enjoined during the pendency of this action, and permanently thereafter, from reproducing, manufacturing, displaying, marketing, distributing, advertising, transferring, loaning, renting or selling any facsimile, copy,

replica, reproduction, picture or depiction of the "Oscar®" design mark, including, but not limited to, the Prop Oscars, or otherwise infringing the Academy's copyright in the "©Oscar®" statuette and trademark rights in the "Oscar®" mark;

2. That all facsimiles, displays, copies, replicas, reproductions, pictures and depictions of the "©Oscar®" statuette in defendants' possession, custody or control, including, but not limited to, the Prop Oscars, and all pre-fabricated displays or kits, molds, matrices or other devices used for assembling, manufacturing, or reproducing the aforesaid items, be ordered delivered up for destruction to the Academy or seized and forfeited to the United States;

3. That all records of customers and sales and/or rentals relating to defendants' infringing products be delivered up to the Academy;

4. That defendants pay to the Academy the full costs of this action and the Academy's reasonable attorneys' fees pursuant to 17 U.S.C. § 505;

5. That the Academy recover its actual damages and lost profits or, in the alternative, that the Academy recover statutory damages of $150,000 for willful infringement pursuant to 17 U.S.C. § 504 and its attorneys' fees pursuant to 15 U.S.C. § 1117;

6. That the Academy recover three times defendants' profits and the Academy's damages, reasonable attorneys' fees, prejudgment interest and the costs of this action pursuant to 15 U.S.C. §§ 1114 and 1117;

7. That defendants be preliminarily and permanently enjoined from using the "Oscar®" marks in any manner and reproducing, displaying, manufacturing, marketing, selling, renting, loaning, distribution or advertising any trophy, statuette or statuette display confusingly similar to the "©Oscar®," whether in two-or three-dimensional form, including, but not limited to, the Prop Oscars, and that all signs, prints, packages, wrappers, literature, Web site listings and advertisements in the possession of defendants bearing any reproduction, counterfeit,

copy or colorable imitation of the "©Oscar®," whether in two- or three-dimensional form, or "Oscar®" marks, and all devices, plates, molds, matrices, and other means of making the same, be delivered up and destroyed pursuant to 15 U.S.C. §§ 1114, 1118, and 1125; and

8. That the Academy have such other and further relief as the Court deems just and proper.

DEMAND FOR A JURY TRIAL

Plaintiff Academy of Motion Picture Arts and Sciences hereby demands trial by jury in this action on all issues triable to a jury, pursuant to Fed. R. Civ. P. 38(b).

Dated: New York, New York
February 27, 2006

QUINN EMANUEL URQUHART OLIVER & HEDGES, LLP

By ______________________________
Robert C. Juman (RJ-6350)

335 Madison Avenue
17th Floor
New York, NY 10017
(212) 702-8100

Attorneys for Plaintiff Academy of Motion Picture Arts and Sciences

Exhibit A

CLASS G unp.No. 38512

Copyright Office
Of the United States of America
THE LIBRARY OF CONGRESS
★ ★ ★ WASHINGTON ★ ★ ★

Certificate of Copyright Registration

This is to certify, in conformity with section 55 of the Act to Amend and Consolidate the Acts respecting Copyright, approved March 4, 1909, as amended by the Act approved March 2, 1913, that a photograph or other identifying reproduction of the

work of art - sculpture

named herein has been deposited in this Office, under the provision of the Act of 1909, and that registration of a claim to copyright for the first term of twenty-eight years has been duly made in the name of

Academy of Motion Picture Arts and Sciences,

1201 Taft Bldg.,

Los Angeles, Calif.

Title: Academy of Motion Picture Arts and Sciences First Award. (A modernistic "gold knight" ....)

Author of United States. (2 views)

Copy received Sept. 2, 1941

Entry: Class G., unp., No. 38512

[SEAL]

C. L. Bouve
Register of Copyrights

Exhibit B

Page 3

FORM R

REGISTRATION NO.

R 443432

DO NOT WRITE HERE

Certificate of Registration of a Claim to Renewal Copyright

This Is To Certify that the statements set forth on this certificate have been made a part of the records of the Copyright Office. In witness whereof the seal of the Copyright Office is hereto affixed.

Abraham L. Kaminstein

Register of Copyrights
United States of America

1. Renewal Claimant(s), Address(es), and Statement of Claim:

(a) Name Academy of Motion Picture Arts and Sciences

Address 9038 Melrose Avenue, Los Angeles, California

Claiming as Proprietor of copyright in a work made for hire

(b) Name

Address

Claiming as

(c) Name

Address

Claiming as

2. (a) Title:

Academy of Motion Picture Arts and Sciences First Award

A modernistic gold knight mounted on a pedestal - known as OSCAR

(b) Renewable Matter:

(c) Contribution to Periodical or Other Composite Work:

(title of periodical or composite work)

If a periodical, give: Vol. ______; No. ______; Issue ______; Date ______

3. Authors of Renewable Matter:

Academy of Motion Picture Arts and Sciences

4. Facts of Original Registration:

Original registration number: Class G ; No. 38517

If registered as published, give date of publication

If registered as unpublished, give date of registration September 2, 1941

Original copyright claimant Academy of Motion Picture Arts and Sciences

EXAMINER: BO

Complete all applicable spaces on next page

Exhibit C

Nº 1028635

THE UNITED STATES OF AMERICA

This is to certify that from the records of the Patent and Trademark Office it appears that an application was filed in said Office for registration of the Mark shown herein, a copy of said Mark and pertinent data from the Application being annexed hereto and made a part hereof,

And there having been due compliance with the requirements of the law and with the regulations prescribed by the Commissioner of Patents and Trademarks,

Upon examination, it appeared that the applicant was entitled to have said Mark registered under the Trademark Act of 1946, and the said Mark has been duly registered this day in the Patent and Trademark Office on the

PRINCIPAL REGISTER

to the registrant named herein.

This registration shall remain in force for Twenty Years unless sooner terminated as provided by law.

In Testimony Whereof I have hereunto set my hand and caused the seal of the Patent and Trademark Office to be affixed this thirtieth day of December, 1975.

C. Marshall Dann

COMMISSIONER OF PATENTS AND TRADEMARKS

Int. Cl.: 16, 41

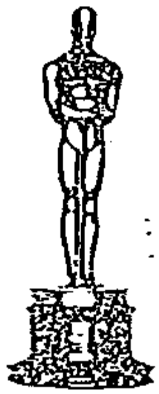
Prior U.S. Cl.: 38, 107

Reg. No. 1,028,635

United States Patent Office

Registered Dec. 30, 1975

TRADEMARK
SERVICE MARK
Principal Register



Academy of Motion Picture Arts and Sciences (California corporation)
9038 Melrose Ave.
Hollywood, Calif.

For: BOOKS, PAMPHLETS, BROCHURES AND PRESS KITS ISSUED FROM TIME TO TIME, in CLASS 16 (U.S. CL. 38).
First use May 16, 1929; in commerce January 1937.

For: EDUCATIONAL AND ENTERTAINMENT SERVICES RENDERED THROUGH THE MEDIUM OF AN ANNUAL LIVE, TELEVISION PROGRAM DEALING WITH MOTION PICTURES, in CLASS 41 (U.S. CL. 107).
First use May 16, 1929; in commerce Mar. 19, 1953.

Ser. No. 33,493, filed Oct. 2, 1974.

NOTICE

☞ *This Registration will be canceled by the Commissioner of Patents and Trademarks at the end of six years following the date of registration, unless within one year next preceding the expiration of such six years, the registrant files in the Patent and Trademark Office an affidavit showing that said mark is still in use or showing that its nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark. A fee of $10.00 for each class must accompany the affidavit.*

16—82629-1

Exhibit D

The United States of America

CERTIFICATE OF REGISTRATION

This is to certify that the records of the Patent and Trademark Office show that an application was filed in said Office for registration of the Mark shown herein, a copy of said Mark and pertinent data from the Application being annexed hereto and made a part hereof,

And there having been due compliance with the requirements of the law and with the regulations prescribed by the Commissioner of Patents and Trademarks,

Upon examination, it appeared that the applicant was entitled to have said Mark registered under the Trademark Act of 1946, as amended, and the said Mark has been duly registered this day in the Patent and Trademark Office on the

PRINCIPAL REGISTER

to the registrant named herein.

This registration shall remain in force for TEN years unless sooner terminated as provided by law.

In Testimony whereof I have hereunto set my hand and caused the seal of the Patent and Trademark Office to be affixed this thirtieth day of May 1995.

Bruce Lehman

Commissioner of Patents and Trademarks

PTO-130
(Rev. 6-89)

Int. Cl.: 9

Prior U.S. Cl.: 21

Reg. No. 1,895,980

United States Patent and Trademark Office

Registered May 30, 1995

TRADEMARK
PRINCIPAL REGISTER

ACADEMY OF MOTION PICTURE ARTS AND SCIENCES (CALIFORNIA CORPORATION)
8949 WILSHIRE BOULEVARD
BEVERLY HILLS, CA 90211

FOR: PRE-RECORDED VIDEO TAPES FEATURING ENTERTAINMENT RELATING TO MOTION PICTURES, IN CLASS 9 (U.S. CL. 21).

FIRST USE 3-0-1992; IN COMMERCE 3-0-1992.

OWNER OF U.S. REG. NO. 1,028,635.

SER. NO. 74-477,109, FILED 1-6-1994.

KEVIN PESKA, EXAMINING ATTORNEY

Exhibit E

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

April 28, 1997

THE ATTACHED U.S. TRADEMARK REGISTRATION *1,960,182* IS CERTIFIED TO BE A TRUE COPY OF THE REGISTRATION ISSUED BY THE UNITED STATES PATENT AND TRADEMARK OFFICE WHICH REGISTRATION IS IN FULL FORCE AND EFFECT.

REGISTERED FOR A TERM OF *10* YEARS FROM *March 05, 1996*
SAID RECORDS SHOW TITLE TO BE IN: *Registrant*

By Authority of the
COMMISSIONER OF PATENTS AND TRADEMARKS

H. PHILLIPS
Certifying Officer

Int. Cl.: 25

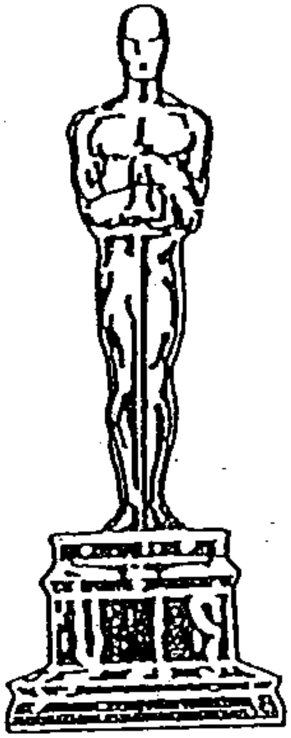
Prior U.S. Cls.: 22 and 39

Reg. No. 1,960,182

United States Patent and Trademark Office

Registered Mar. 5, 1996

TRADEMARK
PRINCIPAL REGISTER



ACADEMY OF MOTION PICTURE ARTS AND SCIENCES (CALIFORNIA CORPORATION)
8949 WILSHIRE BOULEVARD
BEVERLY HILLS, CA 90211

FOR: SWEATSHIRTS; JACKETS; T-SHIRTS; AND, CAPS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 3-0-1989; IN COMMERCE 4-0-1989.

SER. NO. 74-650,049, FILED 3-22-1995.

K. MARGARET LE, EXAMINING ATTORNEY

Exhibit F

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36 and 38

Reg. No. 2,112,107

United States Patent and Trademark Office Registered Nov. 11, 1997

TRADEMARK
PRINCIPAL REGISTER

ACADEMY OF MOTION PICTURE (CALIFORNIA CORPORATION)
ARTS AND SCIENCES
8949 WILSHIRE BOULEVARD
BEVERLY HILLS, CA 90211

FOR: PRE-RECORDED CD-ROMS FEATURING ENTERTAINMENT RELATING TO MOTION PICTURES AND AWARD CEREMONIES, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 6-0-1993; IN COMMERCE 6-0-1993.

OWNER OF U.S. REG. NOS. 1,028,635 AND 1,895,980.

SER. NO. 75-180,095, FILED 10-11-1996.

SIRINA TSAI, EXAMINING ATTORNEY

Exhibit G

ACADEMY OF MOTION PICTURE ARTS AND SCIENCES
8949 Wilshire Boulevard • Beverly Hills, California 90211-1972 • (310) 247-3000
FAX: (310) 859-9351 • (310) 859-9619

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TOM ROLF
TOM SHERAK
ALBERT WOLSKY

JOHN B. QUINN
Legal Counsel

*Past President

February 2, 2006

VIA FAX (818-866-7597) & POST

Ms. Andrea Hartman
Senior Vice President & Deputy General Counsel
National Broadcasting Company
330 Bob Hope Drive
Burbank, CA 91523

Re: ©OSCAR® Statuette

Dear Ms. Hartman:

I am writing on behalf of the Academy of Motion Picture Arts and Sciences with regard to NBC's unauthorized use of replicas of the Academy's OSCAR statuette in the January 31, 2006, episode of the *Today* program.

As we have previously advised NBC, the OSCAR statuette is a copyrighted property of the Academy, registered in the United States pursuant to Certificate of Registration No. G 38512 and Certificate of Registration of a Claim to Renewal of Copyright No. R 443432. The OSCAR statuette design is also a trademark of the Academy, registered in the United States and virtually every country throughout the world. The OSCAR copyright and trademark were the subjects of a lawsuit brought by the Academy against NBC in 2003.

In order to protect the Academy's rights as related to the OSCAR statuette, the Academy must request that NBC: 1) Immediately cease any unauthorized reproduction or other use of the OSCAR statuette, including, without limitation, any use of the OSCAR replicas displayed during the January 31 *Today* show, and 2) Deliver to the Academy for destruction all unauthorized copies of the OSCAR statuette (or anything substantially or confusingly similar thereto) in NBC's possession, including, without limitation, any molds, masters or other means specifically adapted for creating copies or depictions thereof, unless the copies were only obtained from a third party(s), in which case the contact information, invoices, receipts or other information related to such third party(s).

Please let us have NBC's assurance, by no later than February 8, 2006, that it will comply with the Academy's above requests. Otherwise, the Academy will have no choice but to pursue its available legal remedies. The Academy of course also reserves the right to refuse 78th ACADEMY AWARDS access credentials to the *Today* program, NBC News, KNBC in Los Angeles, and any other NBC-affiliated media outlet, should NBC fail to comply.

Very truly yours,

Scott Miller
Assistant Counsel

cc: Bruce Davis
Ric Robertson

Exhibit H

>>> "Joel D. Zychick" <jz@zcounsel.com> 2/15/2006 1:36:05 PM >>>
Dear Mr. Miller, further to our telephone conversation, I wanted to confirm that Props For Today will respond to your office no latter then Monday, February 20, 2006, with respect to its use of the four figurines in question. I also want to confirm that, in the interim, the figurines have been removed from our show room and isolated in a secure area where they will remain until we respond to your office. Indeed, the figurines have not been used since their appearance on the NBC program.

If I can provide any further clarification, please let me know.

Joel D. Zychick, President
Props For Today, Inc.

Exhibit I

quinn emanuel trial lawyers | los angeles
865 South Figueroa Street, 10th Floor, Los Angeles, California 90017 | TEL 213-443-3000 FAX 213-443-3100

February 22, 2006

VIA ELECTRONIC MAIL AND U.S. MAIL

Joel D. Zychick
President
Props For Today, Inc.
330 West 34th Street
New York, New York, 10001

Unauthorized Use of the Academy's Intellectual Property

Dear Mr. Zychick:

We represent the Academy of Motion Picture Arts and Sciences (the "Academy"). As you know, the Academy recently became aware that Props For Today, Inc. ("PFT") has been, among other things, selling and/or renting props that are identical to or strikingly, substantially, or confusingly similar to the Academy's "©Oscar®" statuette (the "Props"). The use of the "©Oscar®" statuette likeness, or any statuette or depiction strikingly, substantially, or confusingly similar thereto, is unauthorized.

As you are undoubtedly aware, the Academy annually confers copies of its Academy Award of Merit, popularly known as the "©Oscar®," on persons who make outstanding contributions in the motion picture industry. The "©Oscar®" statuette is a copyrighted property of the Academy, registered pursuant to Certificate of Registration No. G 38512 and Certificate of Registration of a Claim to Renewal of Copyright No. R 443432. In addition, the Academy has registered the "©Oscar®" statuette as a trademark, pursuant to Certificate of Registration Nos. 1,028,635, 1,895,980, and 1,960,182. The Academy's registrations are valid, current and incontestable. Any unauthorized sale or commercial use of a likeness of the statuette constitutes actionable copyright and trademark infringement. Academy of Motion Picture Arts and Sciences v. Creative House Promotions, Inc., 944 F.2d 1446, 1455 (9th Cir. 1991) (holding that the "Oscar" design mark "should be given the strongest possible protection against infringement").

quinn emanuel urquhart oliver & hedges, llp
NEW YORK | 335 Madison Avenue, 17th Floor, New York, New York 10017 | TEL 212-702-8100 FAX 212-702-8200
SAN FRANCISCO | 50 California Street, 22nd Floor, San Francisco, California 94111 | TEL 415-875-6600 FAX 415-875-6700
SILICON VALLEY | 555 Twin Dolphin Drive, Suite 560, Redwood Shores, California 94065 | TEL 650-801-5000 FAX 650-801-5100
SAN DIEGO | 4445 Eastgate Mall, Suite 200, San Diego, California 92121 | TEL 858-812-3107 FAX 858-812-3336

PFT's use of the "©Oscar®" statuette likeness, or any statuette or depiction strikingly, substantially, or confusingly similar thereto suggests an endorsement of the product by the Academy. This suggestion of endorsement violates the laws pertaining to trademarks and copyrights, and specifically Section 43 of the Lanham Act, 15 U.S.C. § 1125(a).

To protect its valuable intellectual properties, the Academy must request that PFT provide written confirmation that it will permanently cease and desist from any unauthorized use of the "©Oscar®" statuette likeness, or any statuette or depiction strikingly, substantially, or confusingly similar thereto. Further, the Academy must request that PFT agree to:

(1) cease all advertising, awarding, display, manufacturing, sale, rental and/or distribution of "©Oscar®" statuettes or depictions or works substantially or strikingly similar thereto—including the Props;

(2) deliver up to the Academy any and all copies or depictions of the "©Oscar®," or works or depictions substantially or strikingly similar thereto, in your possession, custody or control;

(3) advise the Academy of the total number of advertisements and print catalogs distributed that depict the "©Oscar®" statuette or works or depictions substantially similar thereto;

(4) remove any and all instances of the "©Oscar®" statuette or works substantially or strikingly similar thereto from its Web site, pricing, advertising and all other business materials, if any;

(5) deliver up to the Academy any and all unauthorized copies of the "©Oscar®" statuette or works or depictions substantially similar thereto, as well as all tools specially designed for creating them or, in the alternative, identify by name, address and contact person all manufacturers and distributors of any and all of the Props and all other items bearing the "©Oscar®" likenesses;

(6) identify by name, address and contact person all purchasers of any and all Props and products bearing the "©Oscar®" likeness;

(7) advise the Academy of the gross revenues and profits received from the sale, display and/or rental of any and all Props and any other items bearing the "©Oscar®" likenesses;

(8) provide its written assurance that PFT will not again manufacture, distribute, sell, rent, display or use in any manner unauthorized copies of the "©Oscar®" statuette, or works or depictions substantially or strikingly similar thereto;

(9) provide its written assurance that PFT will not use the "©Oscar®" statuette, or works or depictions substantially or strikingly similar thereto, in any manner; and

(10) provide its written assurance that PFT will not again use copies of the "©Oscar®" statuette, or works or depictions substantially or strikingly similar thereto or otherwise describe, advertise or promote its products or services in a manner suggesting an association with, or endorsement by, the performing arts.

If we do not receive PFT's full and complete compliance to the foregoing terms by the close of business on February 24, 2006, the Academy will have no choice but to pursue its legal options. We await your timely response.

Very truly yours,

David W. Quinto

cc: Bruce Davis
Ric Robertson
Scott Miller, Esq.